IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NOS.2677 & 2761 OF 2005

WRIT PETITION NO : 2677 of 2005

Between:

P.Jagan Mohan Babu, S/o.Late P.Jayaram Dass,
D.No.2/44, Kota Street, Sathyaveedu Post and Mandal,

Chittoor District.

... PETITIONER

AND

The Superintending Engineer (I/C), T.G.P.Circle,

Srikalahasthi, Chittoor District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the respondent herein in issuing the Tender Notice No.6 SE/2004- 2005 dated 10-01-2005 as package No.11 under Telugu Ganga Project Circle, Srikalahasthi by merging different types of works into a package and not reserving 15% of the works to societies/ Individuals belonging to SC/ST/Waddera communities as per the G.O.Ms.No.69 Irrigation & power (IRR.V) Department, dated 01-02-1978 as illegal, improper, unjust and contrary to law and violative of Articles 15 and 19(1)(g) of the Constitution of India and consequently direct the respondent herein to divide the package into individual works and to reserve 15% of the works to societies/individuals belonging to SC/ST/Waddera Communities and pass such other order or orders as this Honourable court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.B.THIMOTHI

Counsel for the Respondent: GP FOR IRRIGATION & COMM AREA DEV.

WRIT PETITION NO : 2761 of 2005

Between:

P. JaganMohan Babu S/o. Late P. Jayaram Dass
D.No. 2/44, Kota Strret, Sathyaveedu Post and Mandal,

Chittoor District.

... PETITIONER

AND

The Superintending Engineer (I/C), T.G.P. Circle,

Srikalahasthi, Chittoor District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent herein in issuing the Tender Notice No. 5SE/2004-2005 dt. 10-1-2005 as Package No. 10 under Telugu Ganga Project Circle, Srikalahasthi by merging different types of works into a package and not reserving 15% of the works to Societies/Individuals belonging to SC/ST/Waddera Communities as per the G.O.Ms. No.69 Irrigation & Power (IRR.V) Department, dt. 1-2-1978 as illegal, improper, unjust and contrary to law and violative of Articles 15 and 19(1)(g) of the Constitution of India and consequently direct the respondent herein to divide the Package into individual works and to reserve 15% of the works to societies/individuals belonging to SC/ST/Waddera Communities and pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.B.THIMOTHI

Counsel for the Respondent No.: GP FOR IRRIGATION & COMM AREA DEV.

The Court at the admission stage made the following :

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COMMON ORDER:

The petitioner is a Civil Contractor of Class-II. He challenges the action of the Superintending Engineer (I\C), T.G.P. Circle, Srikalahasthi, Chittoor District, the respondent, in issuing Tender Notifications dated 10.01.2005, for Package Nos.10 and 11 of Telugu Ganga Project Circle, Srikalahasthi. The petitioner states that the respondent had merged different types of works into single package, with a view to avoid reservation of 15% works, in favour of the societies/individuals belonging to SC/ST/Waddera communities. Petitioner states that he belongs to Scheduled Caste community. He alleges that certain works, of the value of less than Rs.40.00 lakhs, which were notified earlier, were clubbed together, only with a view to avoid reservation of such works.

Heard the learned counsel for petitioner and the learned Government Pleader for Irrigation.

A perusal of the impugned Tender Notifications dated 10.01.2005 discloses that Package No.10 relates to cement concrete lining of the Satya Sai Ganga Canal, with paver, in between Km.0.000 and Km.42.400 and construction of Branch Canal No.6 and part of Branch Canal No.7, together with the distributory system. The irrigation potential of this work is said to be 69,548 acres. Package No.11 is for similar works, between Km.42.400 and Km.151.887. It also includes works of construction of sluices at various places and works on Branch Canal Nos.8A, 8B and 9. The irrigation potential of this work is estimated at 53,000 acres. The Earnest Money Deposit (EMD) for these works is stipulated as Rs.100.00 lakhs, each. It is not in dispute that the reservation in favour of the societies or individuals, belonging to the reserved categories referred to above, is only in respect of works whose value is Rs.40.00 lakhs and below. The value of the present works runs into several crores, and the EMD itself is rupees one crore for each work.

The learned counsel for petitioner states that one of the items of works was earlier notified through E-tendering process, specifically reserving it for Scheduled

Caste, and the same is included in the present work. A perusal of the relevant documents discloses that the said work related to excavation of earth, between Km.1.000 and 1.500, estimated at few lakhs. In contrast, the present work is cement concrete lining of the existing canals, with paver. The work is indivisible. This Court does not find any basis in the contention of the learned counsel for petitioner.

The writ petitions are accordingly dismissed. There shall be no order as to costs.

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21st February 2005

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To

1. The Superintending Engineer (I/C), T.G.P.Circle, Srikalahasthi, Chittoor District.
2. Two C.Cs. to the Government Pleader for Irrigation and

Comm.Area Development, High Court buildings, Hyderabad (OUT)

3. Two C.D.copies